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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/813,819

03/31/2004

Spanky A. Raymond

1842-0010

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MAGINOT, MOORE & BECK, LLP

CHASE TOWER

111 MONUMENT CIRCLE

SUITE 3250

INDIANAPOLIS, IN 46204

EXAMINER

WOODALL, NICHOLAS W

ART UNIT

PAPER NUMBER

3733

MAIL DATE

DELIVERY MODE

07/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,819	<b>Applicant(s)</b> RAYMOND ET AL.	
	<b>Examiner</b> Nicholas Woodall	<b>Art Unit</b> 3733	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03/19/2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8,9,11-16,21 and 23 is/are rejected.
- 7) ☒ Claim(s) 10,17,-19,22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This action is in response to applicant's amendment received on 03/19/2008.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

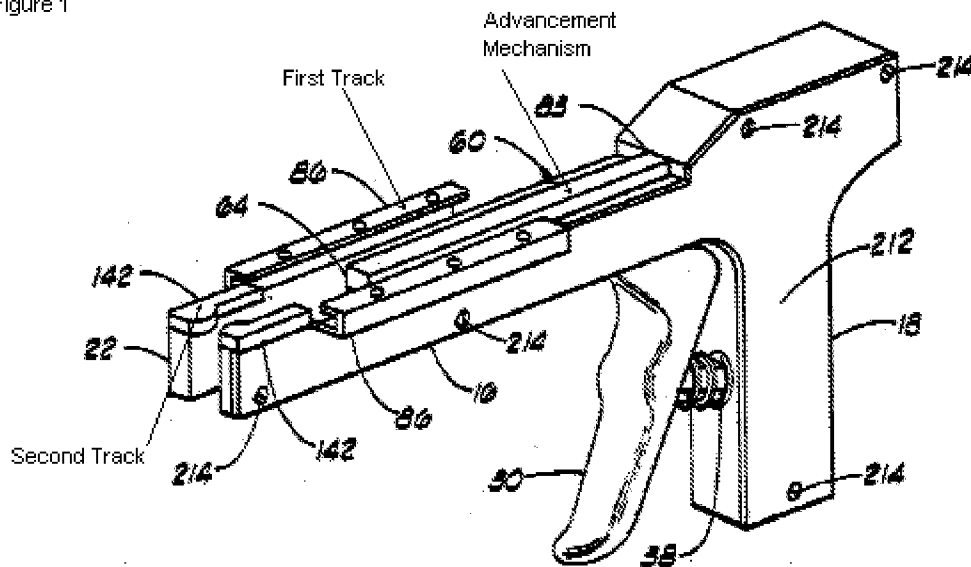
3. Claims 8, 9, 11-13, 15, 16, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woods (U.S. Patent 5,190,560) in view of Di Giovanni (U.S. Patent 4,470,320).

Woods discloses a device comprising a track assembly, an advancement mechanism, and a cartridge (see Figure 1 below). The track assembly includes a first track defining a wafer channel having an opening at an introduction end sized and configured to receive wafers and a second track coupled to the first track defining a pusher channel. The cartridge (80) carries a plurality of wafers (100), wherein the cartridge is coupled to the track assembly at the wafer channel opening such that a wafer enters the introduction end of the track assembly through the wafer channel opening. The advancement mechanism is slidably disposed within the pusher channel and operable on a wafer within the wafer channel to advance the wafer in a first direction along the wafer channel toward the discharge end. The advancement mechanism includes a portion slidably disposed within the pusher channel and at least one finger projecting from the portion into the wafer channel to push a wafer in the wafer

channel. The device further comprises an advancement gun supporting the track assembly and including a manually operable trigger operably coupled to the advancement mechanism such that depressing the trigger slides the advancement mechanism in the first direction within the pusher channel, wherein the advancement gun includes a housing and a trigger pivotally mounted within the housing having a linkage coupled between the trigger and the advancement mechanism to translate pivoting of the trigger into linear movement of the mechanism within the pusher channel. Woods discloses the invention as claimed except for the device wherein the track assembly includes a means for preventing retrograde movement of a wafer within the wafer channel and the track assembly being removably mounted to the advancement gun. Di Giovanni teaches a device comprising a track assembly including a plurality of resilient prong members formed along a channel within the track assembly in order to prevent backwards movement of the elements being moved through the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Woods wherein the track assembly further includes a plurality of resilient prong members in view of Di Giovanni in order to prevent backwards movement of the elements being moved through the device. Regarding the track assembly being removably mounted to the advancement gun, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Woods wherein the track assembly is removably mounted to the advancement gun, since it has been held that constructing a formerly integral structure

in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Figure 1



4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woods (U.S. Patent 5,190,560) in view of Di Giovanni (U.S. Patent 4,470,320) further in view of Yoon (U.S. Patent 5,782,844).

The device of Woods as modified by Di Giovanni discloses the invention as claimed except for the advancement mechanism including a rack gear and the trigger includes a clock gear arranged to mesh with the rack gear as a trigger is pivoted. The device of Woods as modified by Di Giovanni disclose a device comprising an advancement mechanism including a linkage and a trigger as discussed above in order to translate rotational movement of the trigger into linear movement of an advancement mechanism. Yoon teaches a device comprising an advancement mechanism including

a linkage and a trigger wherein the linkage comprises a rack gear and the trigger includes a clock gear capable of meshing with the rack gear in order to translate rotational movement of the trigger into linear movement of an advancement mechanism. Because both the device of Woods as modified by Di Giovanni and Yoon disclose a device comprising an advancement mechanism including a linkage and a trigger wherein the linkage couples the advancement mechanism and the trigger in order to translate rotational movement of the trigger into linear movement of the advancement mechanism, it would have been obvious to substitute one linkage with the other in order to achieve the predictable result of translating rotational movement of the trigger into linear movement of the advancement mechanism.

***Allowable Subject Matter***

5. Claims 10, 17-19, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claims 8-19 and 21-23 have been considered but are moot in view of the new ground(s) of rejection. The examiner has presented new grounds of rejection as necessitated by the amendment making this office action **FINAL**.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Woodall whose telephone number is (571)272-5204. The examiner can normally be reached on Monday to Friday 8:00 to 5:30 EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3733

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas Woodall/

Examiner, Art Unit 3733

/Eduardo C. Robert/

Supervisory Patent Examiner, Art Unit 3733